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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/844,310

04/27/2001

Henry A. Brandtjen JR.

12275.13USC1

1970

23552

7590

05/28/2003

MERCHANT & GOULD PC  
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MINNEAPOLIS, MN 55402-0903

EXAMINER

SELF, SHELLEY M

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 05/28/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/844,310

Applicant(s)

BRANDTJEN ET AL.

Examiner

Shelley Self

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed on May 6, 2003 under 37 CFR 1.131 has been considered but is ineffective to overcome the prior art reference and an action on the merits follows.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the alternate embodiment(s), argued by Applicant with regard to claim 1 (Amendment A, pg. 4, lines 23-27) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 1, it is unclear if the drive mechanism and actively driven biasing member are both linked to the same or different plates. Additionally the claim states the drive mechanism and actively driven biasing member to be linked to "at least one", however the drawings clearly disclose these components to be linked to only one platen.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (5,167,750). With regard to claims 1-5, Myers discloses a platen press (figs. 1-7) device comprising a first and second platens (18, 24), a drive mechanism (70, 80), driven biasing member (40, 42, 44, 30, 32, 36, 38; col. 3 lines 4-19) biasing a second platen, wherein the spring driven biasing member moves with respect to an arm (28), a tensioner (62) comprising a stud and nut (fig. 8). Myers does not disclose the driven biasing member increasing an impression force between the first and second platens. It would have been obvious at the time of the invention to one having ordinary skill in the art to reverse the biasing members such that they bias the second platen towards the first platen since it has been held that mere reversal of the essential working parts of a device involves only routine skill in the art.

With regard to claim 6, Myers discloses a glider (64 and the linkages of the arm, 28 are a "glider") engaging the arm (30, 32).

With regard to claim 7, Myers discloses shafts, spacers extending between the lever arm (28) and "glider" such that at least one platen position is variable about a pivot/rotatable point (26) to raise and lower at least one platen.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (5,167,750) in view of Hix (5,147,469). Myers, does not disclose a driven biasing member to be a hydraulic cylinder. Hix teaches in a press machine the use of a hydraulic cylinder (90) as a driven biasing member of a platen press. Hix teaches that this construction can be used to replace compression or spring driven biasing members (col. 4, lines 59-68 to col. 5, line 1). Because the references are from a closely related art, it would have been obvious to one having ordinary skill in the art at the time of the invention to replace Myers' spring-driven biasing member with a hydraulic cylinder as a driven biasing member as taught by Hix so as to bias or position a platen(s) of a platen press.

As to the driven biasing member increasing an impression force between the first and second platens. It would have been obvious at the time of the invention to one having ordinary skill in the art to reverse the biasing members such that they bias the second platen towards the first platen since it has been held that mere reversal of the essential working parts of a device involves only routine skill in the art.

### *Response to Arguments*

Applicant's arguments have been carefully considered, but are not deemed moot in view of the above rejection.

Applicant's arguments are drawn to the failure of the Myers prior art reference to disclose an actively driven biasing member increasing an impression force between the first and second platens. As noted in the above rejection, Myers discloses actively driven biasing member(s), creating forces between the first and second platens, whereby the actively driven biasing

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member(s) is reversed such that the forces are opposite that of the claimed invention; however a mere reversal of essential working components (i.e. the biasing force, springs 40, 42) alone does not warrant patentability.

As to Applicant's arguments regarding the 35 U.S.C. 112 rejections of claim 1, each and every feature of the claimed invention must be clearly illustrated. The disclosure fails to illustrate any alternate embodiments and is drawn to encompass a single embodiment, and as such the single embodiment is deemed the preferred embodiment.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The

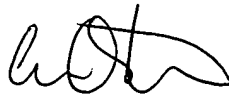
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examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SSelf

May 20, 2003



**ALLEN OSTRAGER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700**